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**STORY COUNTY, IOWA  
CERTIFICATE OF CONDITIONAL USE PERMIT  
AND WRITTEN FINDINGS OF FACT**

<b>IN THE MATTER OF THE APPLICATION OF:</b>	<b>: PERMIT NO. CUP21-000012</b>
<b>InRoads Temporary Asphalt Plant, for the</b>	<b>:</b>
<b>request of a Conditional Use Permit</b>	<b>:</b>
<b>modification for the storage of a temporary</b>	<b>:</b>
<b>asphalt plant during the winter shutdown,</b>	<b>:</b>
<b>located on the SW SW of Section: 18 Township:</b>	<b>:</b>
<b>83 Range: 23, Grant Township, (Parcel ID</b>	<b>:</b>
<b>Number 10-18-300-300).</b>	<b>:</b>
	<b>:</b>

On January 19, 2022, the Story County Board of Adjustment approved the Conditional Use Permit CASE NO. CUP21-000012 for the request of a Conditional Use Permit modification for the temporary storage of a temporary asphalt plant during the winter shutdown with conditions.

- 1. The tanker on site has secondary containment placed around it.
- 2. The tanker is removed from the site when extraction ceases for the season.
- 3. The InRoads Paving temporary asphalt batch plant facility shall be removed by April 25, 2022 and the conditional use permit expire on this date.
- 4. The floodplain permit for the asphalt plant shall be renewed.

**VOTE:**       **Ayes:**           **Neubauer, Excell, Hovick, Jondle, McGill**  
                  **Nayes:**  
                  **Absent:**  
                  **Vote:**           **(5-0)**

**Written Findings of Fact**

**Case Summary:** The request is for a conditional use permit (CUP) modification to allow a temporary asphalt batch plant facility south of Ames on 560th Avenue to be shut down and stored for the winter. Permanent asphalt plants are allowed in the A-1 Agricultural Zoning District in accordance with the requirements of Chapter 90, Conditional Uses, of the Story County Land Development Regulations and with the granting of the permit by the Board of Adjustment. They must be located on a site in conjunction with a mineral extraction use.

The temporary asphalt batch plant currently is located on the same property as the Inroads, LLC, sand extraction site and will obtain materials from the extraction use if InRoads wins bids on upcoming paving projects in Story County. The plant could be allowed permanently on the site given the primary mineral extraction use.

Past CUPs for asphalt plants on the property have all been temporary in nature. The temporary asphalt plant was approved to be located and operate at the site as the Story County Board of Adjustment July 21, 2021 meeting. The plant was to be removed at the conclusion of a paving project in November of 2021.

The modification is being requested so that InRoads is not required to move the temporary asphalt plant while they bid on paving contracts in Story County over the winter. If InRoads is unsuccessful winning bids on any projects the plant would be removed by April 25, 2022. If InRoads is successful in bidding on projects in the county, they would bring the plant back into operation. By allowing the plant to stay on site but not in operation InRoads will save transportation costs. It will cost InRoads approximately \$40,000 to move the asphalt plant.

The temporary asphalt plant will not require a new modification to the existing CUP if they are successful in winning bids in Story County. Since the original CUP was approved, Story County has updated the county's requirements concerning temporary asphalt plants. The new ordinance has removed the requirement that temporary asphalt plants need a CUP to operate. They are now permitted through a zoning permit if they are only on a site for the duration of a construction project and the site is restored. The InRoads plant's storage does not qualify for this allowance since it is not being used for any current construction projects.

The pad for the existing temporary asphalt plant and mineral extraction use was approved prior to Story County updating its floodplain requirements. The zoning permit to bring the plant back into operation would require that the pad the plant sits on be raised three feet above the base flood elevation as hazardous substances are required to be elevated to this height. The current pad is 18 inches above the base flood elevation. InRoads has been informed of this requirement.

All of the tanks associated with the production of asphalt have been removed from the site will be. There is one fuel tanker located on the property related to the mineral extraction use. This tanker will be removed late December 2021 or when the extraction site freezes and work ceases for the winter. Once this tanker is removed there will not be any employees on the site. The site will be monitored throughout the winter to maintain the safety and security of the site. The site will be inspected weekly. InRoads has installed a gate that will be chained shut to secure the site.

If the applicant is successful in bidding on projects in Story County, they anticipate that the plant would be in operation in March or April. The applicant will bid on projects in Story County as they are made public. This usually happens a few weeks before bids are closed. The soonest project that bids is an IDOT project that bids on December 21<sup>st</sup>.

The existing stockpiles on the site will be used for projects in the county if the applicant is successful at winning bids. If the applicant is unsuccessful in bidding on projects the material would be sold to other companies or hauled to the applicants Des Moines location for use there.

Marcus Amman, Story county Planning and Development Planner, reviewed the Conditional Use Permit Application, site plans, written narrative and other related submittal materials and responses from the applicant to County staff comments in accordance to Chapter 90 Conditional Uses of the Story County Land Development Regulations. Amelia Schoeneman presented the staff report at the January 19, 2022 Story County Board of Adjustment meeting.

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## Conditional Use Permit Analysis

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**A. Applicable Regulations:** Chapter 90.04: Standards for Approval  
The Planning and Zoning Commission shall review the proposed development for conformance to the following development criteria:

1. **Compatibility.** The proposed buildings or use shall be constructed, arranged and operated to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of

adjacent property in accordance with the applicable district regulations. The proposed development shall not be unsightly, obnoxious, nor offensive in appearance to abutting or nearby properties.

Applicant Comment: *The site will not house any permanent structures. Table 90-1 in the Story County Land Development Regulations requires that asphalt plants be in conjunction with or adjacent to a mineral extraction and primary mineral processing operation. The location of 3034 560th Ave. Ames, Iowa, 50010 is currently a sand pit so this location follows the requirements of Table 90-1.*

Staff Comment: The site is adjacent to Hallett's Quarry and the applicant's own mineral extraction operation as required by the Story County Land Development Regulations Chapter 90, Conditional Uses. While the plant is proposed to be shut down, when in operation the materials for the asphalt plant may be obtained from the quarries and the uses will support each other.

The temporary asphalt batch plant is currently disassembled and set up for storage/transport. This is already a gravel pad from previous asphalt plants on the site and used by the mineral extraction use. Twelve acres to the south of the asphalt plant site are occupied by the mineral extraction use. The remaining 29 acres will be in agricultural use, which is compatible with the agricultural use and A-1, Agricultural zoning of the adjacent parcels. There are not adjacent single-family dwellings or other non-agricultural uses within the immediate vicinity, with the exception of Hallet Materials. The compatibility of the site will not change during the winter shut down of the site. Staff is recommending a condition limiting the duration the plant can be stored on the site if InRoads is unsuccessful at winning bids for projects in Story County.

2. **Transition.** The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.

Applicant Comment: *No permanent buildings will be constructed on this property. Everything brought on the property will be portable and removed after the project is completed. There is already an aggregate pad to place the portable asphalt plant on from the sand pit so no additional pad will be created*

Staff Comment: The temporary asphalt batch plant is currently disassembled and set up for storage/transport. There is an existing tree line between the site and the parcel to the north (Hallet Materials). The silo and stack may be visible above the tree line. Interstate 35 is located approximately 0.2 miles to the east of the site and is visible from the site. However, the proposed use is temporary and the adjacent properties are all in agricultural or extraction use. Berms were previously required around the mineral extraction use, to the south and east.

3. **Traffic.** The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

Applicant Comment: *The access roads to the site include South Dayton Ave., SE 18th St. and 560th Ave. Most of the traffic on these roads are truck traffic heading to the sand pits in this area. There is already a driveway to this property so ingress and egress will remain the same. During this shut down phase there would be no traffic into the site.*

Staff Comment: According to the Story County Engineer, the road sees very

little traffic. Given the truck traffic generated by the use, a condition was imposed on the previous CUP that the applicant must restore the road to its original condition and maintain the road. During the operation of the asphalt plant there was some damage to the road. Traffic to the site will be minimal except to verify security and safety of the site during winter shutdown. The County Engineer suggested that 560<sup>th</sup> Ave may be a candidate for vacation as all the properties south of the Hallet Materials site is not used by the public. This suggestion would allow for all maintenance of the road to be completed by InRoads. This will be pursued separately.

4. **Parking and Loading.** The development shall provide all off-street parking and loading areas as required by this Ordinance, and adequate service entrances and areas. Appropriate screening shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes or other detrimental impacts.

Applicant Comment: *All parking and loading will remain on the property. Parking will have a designated area that will minimize visual impact, glare from headlights, noise, fumes, and other detrimental impacts. During the shutdown phase there would not be any parking and no employees on site.*

Staff Comment: Five parking spaces were previously provided on the east side of the site. These parking spaces will not be utilized as there will be no employees on site during the winter shut down.

5. **Signs and Lighting.** Permitted signage shall be in accordance with the applicable district regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety and compatibility with property in the immediate vicinity.

Applicant Comment: *Work on the site will primarily happen during the day so lighting is not much of a concern. Our asphalt plant does have some lights, but all lights will be pointed down towards the plant site. This will not impede traffic on the roads near the site. Trucks turning signs will be placed on the road near the plant to warn traffic of trucks coming in and out of the plant site.*

Staff Comment: No lighting or signage is proposed.

6. **Environmental Protection.** The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.

Applicant Comment: *The Iowa Department of Transportation holds asphalt plants to strict guidelines when it comes to environmental protection. Dust is held to a minimum using a bag house that is attached to the asphalt plant. The Iowa DNR issues an air quality permit for each plant. This states that the plant is a minor emitter toward air quality. InRoads along with the Iowa Department of Transportation ensures that the asphalt plant will have no impact on the environment with routine inspections and periodic testing of air testing and storm water on site. The IDNR has been notified of winter shutdown.*

Staff Comment: The floodplain development permit is required to be renewed if the extension is granted. This is recommended as a condition. A flood evacuation plan is required as part of the floodplain permit and will include monitoring protocol, parameters for when evacuation is required, and the logistics for moving equipment. The temporary asphalt batch plant is currently disassembled and set up for storage/transport.

All tanks fuel tanks will be removed from the site during the shutdown. There is currently one tanker on the site and that will be removed when the extraction use ends for the winter. Its removal is recommended as a condition. This tanker provides fuel for the extraction use currently. During site review, staff noted that a secondary containment berm around the tank was needed. InRoads indicated this would immediately be remedied. This is recommended as a condition.

InRoads has been notified of the new requirements for floodplain protection (additional elevation requirements) that will be required to be met if they propose to operate the plant in 2022 in Story County

**B. If the Commission concludes that all the above development criteria will be met, it must recommend approval of the application unless it concludes that, if completed as proposed, there is a strong probability the development will:**

- 1. not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property.**

Staff Comment: There are no adjacent single-family dwellings to the site. Hallett Materials is located to the north of the site, which is a similar use. The parking of the equipment during the winter shutdown will not have impacts on the health, safety, and general welfare in the area.

- 2. impair an adequate supply (including quality) of light and air to surrounding properties.**

Staff Comment: There are no anticipated impacts to light or air from the parking of the equipment during the winter shutdown.

- 3. unduly increase congestion in the roads, or the hazard from fire, flood, or similar dangers.**

Staff Comment: Traffic in the South Dayton Avenue Area, south of US Highway 30 is primarily related to the extraction use directly to the north of the proposed site and the extraction use on the subject property. The Iowa DOT 2019 Traffic Counts show 20 cars a day on 560th Avenue. The only traffic generated from the winter shutdown will be from the weekly safety checks. The County Engineer suggested that 560<sup>th</sup> Ave may be a candidate for vacation as all the properties south of the Hallet Materials site is not used by the public. This suggestion would allow for all maintenance of the road to be completed by InRoads. During the operation of the asphalt plant there was some damage to the road.

Please see previous comments regarding flood protection.

- 4. diminish or impair established property values on adjoining or surrounding property.**

Staff Comment: The Story County Assessor's Office raised no concerns with this item from the review of the requested Conditional Use Permit application. No negative impacts on property values are anticipated.

- 5. not be in accord with the intent, purpose and spirit of the Land Development Regulations or County Cornerstone to Capstone (C2C) Plan.**

Staff Comment: This site is within the Rural Urban Transition Area designation in the Ames Urban Fringe Plan Land Use Framework Map. Policies for this area include:

RUTA Policy 4: Permit interim development to occur in a manner that will support long-term urbanization of the Ames Urban Fringe.

The temporary asphalt batch plant could aid in road projects in and near the City of Ames, which will support the urbanization of the Ames Urban Fringe Area.

Within the Rural Urban Transition Area, the area is designated as a Natural Area due to its location in the floodplain of the South Skunk River. The policies for Natural Areas include:

NA Policy 3: Mitigate negative impacts to Natural Areas, including, but not limited to: agricultural chemical application, animal confinement and feeding, agricultural irrigation, miscellaneous agricultural activities like manure and fuel storage, outdated and non-functioning on-site wastewater systems, underground storage tanks, and nutrient-loaded urban stormwater run-off.

All tanks fuel tanks will be removed from the site during the shutdown. There is currently one tanker on the site and that will be removed when the extraction use ends for the winter. Its removal is recommended as a condition. This tanker provides fuel for the extraction use currently. During site review, staff noted that a secondary containment berm around the tank was needed. InRoads indicated this would immediately be remedied. This is recommended as a condition.

### **Conceptual Review**

Application materials were routed to the Interagency Review Team. Some of the County staff review comments were as follows:

#### **Comments from the Assessor's Office**

Temporary Asphalt Batch Plant is considered personal property and will not be assessed as real estate.

#### **Comments from the Auditor's Office**

No comment

#### **Comments from the Engineer's Office**

The Engineer's Office is in favor of extending the asphalt plant permit since we have two large asphalt projects that will be let in January 2022 that could benefit from this. The gravel portion of 560th Ave. held up to the asphalt trucks this summer but the edges of the road started to get pushed out so there is some concern with long term heavy use on this gravel roadway. The residential property to the south was sold so we do not have general public using this gravel roadway any longer which eases some of my concerns. We may look into the possibility of vacating a portion of 560th Ave. in the future if land access is no longer an issue.

#### **Comments from the Emergency Management's Office**

No comment

#### **Comments from the Environmental Health's Office**

No comment

The following were relevant comments documented by the Interagency Review Team:

### **Planning and Development Department Comments and applicant responses after CUP Submittal:**

A floodplain permit renewal will be needed. If the site is used again the pad will be required to be elevated to 3 feet above the base flood elevation. We require that storage of equipment and materials that are flammable, explosive, or injurious to human, animal, or plant life must

be elevated a minimum of three (3) feet above the one percent annual chance or greater flood level. Elevation was completed last time with the gravel pad. The requirement at this time though was 18 inches. Additional elevation is required to achieve three feet of elevation if the asphalt plant is used at this location again. Elevating must be proven with a survey and elevation certificates. An elevation certificate marked "construction drawings" with the application. We also require a "building under construction" elevation certificate to document surrounding grades and the elevation once it is able to be determined during construction and then a post "finished-construction" certificate. Other material and equipment must either be similarly elevated or evacuated using the evacuation plan procedures. Please update the evacuation plan to include Amelia Schoeneman's contact information as the floodplain manager (515-382-7251 and aschoeneman@storycountyiowa.gov). Please also confirm that you have signed up to automated alerts through the USGS for gage heights.

#### **Other Communication from County Staff**

Auditor's Office:

**No Comment**

**Public notification letters were mailed to surrounding property owners within a quarter mile of the site on December 8, 2021, regarding the Conditional Use Permit application.**

#### **Comments from the General Public:**

No comments were received for this proposed use.

#### **Comments from Cities within Two Miles**

City of Ames stated they did not have any concerns

#### **Comments from the General Public:**

Prior to the Board of Adjustment meeting, there were not any comments from the public.

#### **Comments from the Board of Adjustment at their January 19, 2022 meeting:**

Amelia Schoeneman stated that this is for an asphalt plant. The asphalt plant is not in use, but want to keep it on the site. It is required that asphalt plants be removed at the end of the construction project, but there is an exception in the code that if there is a mineral extraction on the site that an asphalt plant can be permanent.

Schoeneman stated the location is unique due to no nearby residences so the site is compatible, as well as being a good distance away from any commercial sites in the area. It is in the floodplain, so the floodplain permit would require being updated. Schoeneman went through the compatibility for both the asphalt and mineral extraction modifications on the agenda.

- Compatibility - Nothing is changing, only extending timeline, asphalt plant is not set up so it can't be seen well from I-35.
- Transition - There is an existing tree line between the site and the parcel to the North (Hallet Materials). Berms were previously required around the mineral extraction use that were landscaped.
- Traffic – No new traffic.
- Parking – No new parking and loading impacts.
- Signs and Lighting – no new lighting or signage proposed.
- Environmental Protection – Floodplain management considerations. Three feet of elevation is now required instead of 18", so the gravel pad on the site would need to be increased in height for the fuel storage containers if it is continued to be used for an asphalt plant, which would be addressed in the future. Neubauer asked if this is due to an update since the permit was originally approved. Schoeneman agreed and stated that normally there would be nonconforming, but in this instance since it is not a continued use and removing the plant from the site, the floodplain permit expires and will need renewed and brought into conformance with current standards.

Schoeneman stated if the board concludes that all the standards are met, there are also five other standards to conclude won't happen. All the findings were noted in the Staff Report, so stated she would not summarize them unless there were questions.

There were no questions from the Board and no public comments.

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**Points to Consider for the Conditional Use Permit Request**

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- 1. The proposed asphalt batch plant shutdown phase is just for the storing of equipment.
- 2. No processing will take place during the shutdown.
- 3. The applicant is bidding on projects in Story County over the winter. This will allow for the applicant to be able to start production faster if they win bids.
- 4. All tanks will be removed from the site.
- 5. The site will be secured over the shutdown period.
- 6. The applicant will visit the site once a week to verify safety and security of the site.
- 7. The applicant will bring the asphalt plant back online if they are successful at bidding on projects in the county.
- 8. The asphalt plant will be removed by April 25<sup>th</sup> if the applicant is not successful in bidding on projects.

**Board of Adjustment Action on Written Findings of Fact**

**Date:** February 16, 2022  
**VOTE:**            **Ayes**                      **Nays**  
**McGill**  
**Neubauer**  
**Excell**  
**Hovick**  
**Jondle**

**Vote:**

**Chair:** \_\_\_\_\_